

Application No. 10/667,129
Response dated January 23, 2006
After Final Office Action of December 6, 2005

Docket No.: 08226/1203097-US1

REMARKS

Claims 1-82 are pending in the present application. The Final Office Action dated December 6, 2005 (FOA) has rejected Claims 1-82. None of the claims are amended in this response.

Telephone Interview Summary:

A telephone interview was held on January 10, 2006. Applicants' attorney requested clarification of statements in the FOA, such as those in section 6 of the FOA. Examiner Elisca indicated that a clerical error occurred in section 6 of the FOA. Rather than stating that Applicants' arguments filed on 9/1/2005 are moot in view of new grounds of rejection, section 6 should state that Applicants' arguments are not persuasive.

Applicants' attorney also requested clarification of the Examiner's interpretation of the term "virtual container" as used in the cited Bass reference (US 6,744,446). The Examiner considered the term, and invited applicants' attorney to submit a written response to the FOA for further review. No agreement was reached on this or other substantive issues.

The 35 U.S.C. §103 rejection of Claims 1-82 over Allan & Bass:

Claims 1-82 continue to be rejected under 35 U.S.C. §103(a) as being unpatentable over Allen et al. (U.S. Patent No. 6,526,456, hereinafter referred to as Allan) in view of Bass et al (U.S. Patent No. 6,744,446, hereinafter referred to as Bass). The FOA discusses claim limitations that are substantially similar in each of the independent Claims 1, 33, 36, 37, 44, 76, 79, and 82. Consequently, the discussion below applies to all of the independent claims.

In response to applicants' prior arguments, section 7 of the FOA interprets certain claim terms in view of Allen. Applicants respectfully disagree with the interpretations. However, more importantly, the FOA does not address the following substantial claim terms. Applicants argued at least some of these terms in response to the prior office action, and applicants hereby incorporate

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Application No. 10/667,129
Response dated January 23, 2006
After Final Office Action of December 6, 2005

Docket No.: 08226/1203097-US1

those arguments by reference. However, applicants believe that a misunderstanding exists as to the meaning of the following substantial claim terms. Thus, applicants request that the examiner consider the remarks below.

A) Virtual Containers

The FOA continues to cite Bass as disclosing the claim limitation "virtual containers." Although Bass uses the same words, the meaning of those words are entirely unrelated to the claim limitation. The independent claims require assigning a collection of virtual containers to a set of users, wherein each virtual container is configured to identify one or more software products.

In contrast, Bass discloses a virtual container as a unit of data carried from one node to another in a network at a predetermined size and speed. (See Bass, col. 1, lines 36-58.) Bass does not disclose or suggest that its virtual containers identify one or more software products. In addition, Bass does not disclose or suggest that its virtual containers are assigned to a set of users. On the contrary, Bass discloses that a user assigns virtual containers to network elements and sets network endpoints (See Bass, col. 2, line 66 through col. 3, line 3.). Thus, even if Bass is considered related to identifying software products, Bass teaches away from the claimed invention.

The other cited reference, Allan, does not disclose or suggest virtual containers, and does not disclose or suggest any other element that would motivate one of ordinary skill in the art to use a virtual container. Allan is directed to controlling use of a software product by having an authorization agent supply authorizing software to an authorized subscriber during execution of the software product. (See Allan, abstract, and col. 2, lines 20-32.) In contrast, Bass is directed to "an improved visual interface [] for a user at network or sub-network management level in a hierarchical network such as a SDH or SONET network." (Bass, col. 1, line 66 through col. 2, line 2.) Bass and Allan are not even in analogous fields. For the reasons above, one of ordinary skill in the art of would not be motivated to select Bass, let alone combine Bass with Allan.

B) Access Based on Identification of Software Product

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Application No. 10/667,129
Response dated January 23, 2006
After Final Office Action of December 6, 2005

Docket No.: 08226/1203097-US1

Applicants' independent claims specify that access to a software product is based on whether the software product is identified as a rented software product in one or more virtual containers. Aside from the difference in the meaning of the words "virtual container," the FOA indicates that Allan discloses authorizing a user to access a software product based on whether the software product is identified as a rented software product. Applicants respectfully disagree. Allan discloses that a "modified software product produced by the [application packager] AP 20 is distributed freely and can be run by the [subscriber computer] SC 14 . . ." (Allan, col. 7, lines 14-16.) Access is not dependent on whether the software product is identified as rented. In fact, Allan states that "the nature of the business relationship is arbitrary as far as this invention is concerned . . ." (Allan, col. 5, lines 5-6.) Thus, Allan does not disclose or suggest a required limitation of applicants' claims.

For the reasons above, Allan and Bass do not disclose all of the limitations of independent Claims 1, 33, 36, 37, 44, 76, 79, and 82, and there is not motivation to select and combine Bass with Allan. Accordingly, the rejection of independent Claims 1, 33, 36, 37, 44, 76, 79, and 82 under 35 U.S.C. §103(a) should be withdrawn. Dependent claims are patentable for at least the same reasons as the independent claims from which the dependent claims depend. Thus, dependent Claims 2-32, 34, 35, 38-43, 45-75, 78, 80, and 81 are patentable for at least the same reasons as their corresponding independent claims. Accordingly, the rejection of dependent Claims 2-32, 34, 35, 38-43, 45-75, 78, 80, and 81 under 35 U.S.C. §103(a) should also be withdrawn.

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Application No. 10/667,129
Response dated January 23, 2006
After Final Office Action of December 6, 2005


Docket No.: 08226/1203097-US1

CONCLUSION

In view of the foregoing remarks, Applicants believe that this response has responded fully to the concerns expressed in the FOA and that each of the pending claims is in condition for immediate allowance. Accordingly, the Examiner is respectfully requested to pass this application to issue. If, in the opinion of the Examiner, a telephone conference would expedite the prosecution of this application, the Examiner is invited to call the undersigned attorney at the telephone number listed below.

Dated: January 23, 2006

Respectfully submitted,

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